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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,680	12/18/2001	Darren J. Cepulis	COMP:0255 P00-3415	5698

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Intellectual Property Administration  
Legal Department, M/S 35  
PO Box 272400  
Ft. Collins, CO 80527-2400

EXAMINER

SURYAWANSHI, SURESH

ART UNIT	PAPER NUMBER
	2115

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/023,680	CEPULIS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Suresh K Suryawanshi	2115	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 January 2005.

2a) This action is **FINAL**.                                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-20 are presented for examination.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Zalewski et al (US Patent no 6,647,508 B2<sup>1</sup>).

4. As per claim 1, Zalewski et al teach

allocating resources of the computing device to a plurality of resource sets prior to loading a desired O/S layer for the computing device [col. 4, lines 40-50; col. 6, lines 17-24; col. 31, lines 23-27; allocation is performed by a console program that is loaded into memory at power up]

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<sup>1</sup> Prior art cited by examiner in the prior office action.

wherein allocating resources comprises cloning a portion of the resources and allocating the original portion of the resources and a clone portion of the resources to different resource sets [col. 6, lines 53-59; col. 7, lines 14-22; col. 7, lines 55-60; col. 8, lines 2-17, 42-50 col. 22, lines 32-35; a copy of console program is needed in order to run an operating system; therefore each partition that will run with its own operating system requires to have a copy of the console program too]; and

loading a desired operating system on each set of the plurality of resources sets at the desired O/S layer [col. 4, lines 48-52; col. 31, lines 23-30; running an operating system on each of a plurality of partitions].

5. As per claim 9, Zalewski et al teach

cataloguing resources of the computing devices prior to O/S booting for the computing device [col. 8, lines 8-11; partitions are created based on the environment variables; col. 11, lines 19-22; device configuration tables; col. 11, lines 39-47; information contained in the template root node];

dividing the resources into multiple subsets prior to O/S booting [col. 4, lines 40-50; col. 6, lines 17-20, 21-24; col. 31, lines 23-27; allocation is performed by a console program that is loaded into memory at power up]

wherein dividing resources comprises cloning a portion of the resources and allocating the original portion of the resources and the cloned portion of the resources to different subsets [col. 6, lines 53-59; col. 7, lines 14-22; col. 7, lines 55-60; col. 8, lines 2-17, 42-50; col. 22, lines 32-35; a copy of console program is needed in order to run an operating system; therefore each partition that will run with its own operating system requires to have a copy of the console program too]; and

loading the plurality of independent operating systems, at least one O/S being loaded on each resource set of the multiple subsets [col. 4, lines 48-52; col. 31, lines 23-30; running an operating system on each of a plurality of partitions; col. 5, lines 42-48; col. 6, lines 48-52].

6. As per claim 2, Zalewski et al teach that allocating resources comprises organizing the resources in a ROM-based environment [col. 8, lines 8-11; inherent to a computer system to have a ROM containing an important module or information data].

7. As per claim 3, Zalewski et al teach that organizing the resources in the ROM-based environment comprises gathering device data from a BIOS module [inherent to the system as a BIOS contains the important device data].

8. As per claim 4, Zalewski et al teach that allocating resources comprises dividing the resources in an initialization phase of the computing device [col. 6, lines 21-24; at power up].

9. As per claim 5, Zalewski et al teach that allocating resources comprises sharing at least a portion of the resources [col. 4, lines 43-45; col. 10, lines 29-33; shared resources].

10. As per claim 6, Zalewski et al teach that allocating resources comprises identifying and initializing at least a portion of the resources [col. 7, lines 16-22].

11. As per claim 7, Zalewski et al teach that allocating comprises manually selecting desired allocations of the resources via a user interface [col. 7, lines 44-47; col. 8, lines 22-24; administrator or console interface].

12. As per claim 8, Zalewski et al teach that comprising running multiple desired operating systems at the desired O/S layer on the computing device [col. 5, lines 32-48;].

13. As per claim 10, Zalewski et al teach that the plurality of independent operating systems provide independent platforms for loading and running application software [col. 5, lines 42-48; col. 6, lines 48-52; any operating system can execute concurrently independent of each other].

14. As per claim 11, Zalewski et al teach that cataloguing, dividing and loading are performed in an initialization phase of the computing device [col. 6, lines 21-24; at power up].

15. As per claim 12, Zalewski et al teach that dividing the resources comprises allocating desired portions of hardware and system services to each of the multiple subsets [col. 4, lines 40-50; resources are adaptively subdivided to run a distinct copy of an operating system].

As per claim 13, Zalewski et al teach that allocating desired portions of hardware and system services comprises sharing the system services between the multiple subsets and the independent operating systems loaded thereon [col. 4, lines 43-45; designated shared resources; col. 6, lines 48-52; sharing resources between operating system instances].

***Claim Rejections - 35 USC § 102***

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(f) he did not himself invent the subject matter sought to be patented.

17. Claims 14-20 are rejected under 35 U.S.C. 102(f) as applicants claim an Extensible Firmware Interface (EFI) that is clearly not invented by the applicants in view of Doran (Extensible Firmware Interface: booting the new generation of Intel Architecture platforms; September 1, 1999).

***Response to Arguments***

18. Applicant's arguments filed 01/11/05 have been fully considered but they are not persuasive.

19. In the remarks, applicants argued in substance that (1) Zalewski reference makes no mention cloning resources; (2) Zalewski reference does not even mention an extensible firmware interface.

20. As to point (1), Zalewski et al clearly disclose about cloning of the console program as a copy of console program is needed in order to run an operating system and therefore each partition that will run with its own operating system requires to have a copy of the console program too [col. 6, lines 53-59; col. 7, lines 14-22; col. 7, lines 55-60; col. 8, lines 2-17, 42-50 col. 22, lines 32-35].

21. As to point (2), Zalewski et al do not mention an extensible firmware interface. However, an extensible firmware interface (EFI) is not invented by the applicants in view of Doran as rejected above under 35 U.S.C. 102(f).

### *Conclusion*

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suresh K Suryawanshi whose telephone number is 571-272-3668. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 571-272-3667. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sk  
March 10, 2005



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